

§ 232.1005

acceptable to the Commissioner. A master tenant under a master lease approved by the Commissioner who has subleased the healthcare facility to an operator is not an Operator.

§ 232.1005 Treatment of project operating accounts.

All accounts deriving from the operation of the property, including operator accounts and including all funds received from any source or derived from the operation of the facility, are project assets subject to control under the insured mortgage loan's transactional documents, including, without limitation, the operator's regulatory agreement. Except as otherwise permitted or approved by HUD, funds generated by the operation of the healthcare facility shall be deposited into a federally insured bank account, provided that an account held in an institution acceptable to Ginnie Mae may have a balance that exceeds the amount to which such insurance is limited. Any of the owner's project-related funds shall be deposited into a federally insured bank account in the name of the borrower provided that an account held in an institution acceptable to Ginnie Mae may have a balance that exceeds the amount to which such insurance is limited.

§ 232.1007 Operating expenses.

Goods and services purchased or acquired in connection with the project shall be reasonable and necessary for the operation or maintenance of the project, and the costs of such goods and services incurred by the borrower or operator shall not exceed amounts normally paid for such goods or services in the area where the services are rendered or the goods are furnished, except as otherwise permitted or approved by HUD.

§ 232.1009 Financial reports.

The borrower must provide HUD and lender an audited annual financial report based on an examination of its books and records, in such form and substance required by HUD in accordance with 24 CFR 5.801 and 24 CFR 200.36. Operators must submit financial statements quarterly within 30 calendar days of the date of the end of

24 CFR Ch. II (4–1–13 Edition)

each fiscal quarter, setting forth both quarterly and fiscal year-to-date information, except that the final fiscal year end quarter must be submitted to HUD and lender within 60 calendar days of the end of the quarter, in accordance with 24 CFR 5.801(c)(4).

§ 232.1011 Management agents.

(a) An operator or borrower may, with the prior written approval of HUD, execute a management agent agreement setting forth the duties and procedures for matters related to the management of the project. The management agent, each initial management agent agreement with that agent, and any amendments to such management agent agreements deemed material by the Commissioner must be acceptable to HUD and approved in writing by HUD.

(b) An operator or borrower may not enter into any agreement that provides for a management agent to have rights to or claims on funds owed to the operator.

§ 232.1013 Restrictions on deposit, withdrawal, and distribution of funds, and repayment of advances.

(a) *Deposit of funds.* An operator must deposit all revenue the operator receives directly or indirectly in connection with the operation of the healthcare facility in an account with a financial institution whose deposits are insured by an agency of the Federal Government, *provided* that an account held in an institution acceptable to Ginnie Mae may have a balance that exceeds the amount to which such insurance is limited.

(b) *Withdrawal of funds.* If a quarterly/year-to-date financial statement demonstrates negative working capital as defined by HUD, or if the operator fails to timely submit such statement, then until a current quarterly/year-to-date financial statement demonstrates positive working capital or until otherwise authorized by HUD, the operator may not distribute, advance, or otherwise use funds attributable to that facility for any purpose other than operating that facility.